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Charles Hsin and Optech Limited

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,

Civil No. 07-4762-PJH

Plaintiff,

v.

CHARLES CATHCART, SCOTT
CATHCART, YURIJ DEBEVC, a/k/a YURI
DEBEVC, ROBERT NAGY, DERIVUM
CAPITAL (USA), INC., VERIDIA
SOLUTIONS, OPTECH LIMITED,
CHIHSIU HSIN, a/k/a CHARLES HSIN,
FRANKLIN THOMASON

Defendants.

**DECLARATION OF EDWARD O.
C. ORD IN SUPPORT OF THE
DEFENDANTS HSIN AND
OPTECH LIMITED'S
ADMINISTRATIVE MOTION
PURSUANT TO LOCAL RULE 7-11
TO CONTINUE THE ENTIRE
CASE MANAGEMENT SCHEDULE
ORDER**

I, EDWARD ORD, declare as follows:

1. I am a member in good standing of the Bar of this Court.
2. The Defendants and their counsel have and continued to be severely prejudiced by the continued enforcement of the current case management order entered near the beginning of this case that gave the U.S. and the other defendants seven additional months that Defendants CHARLES HSIN and OPTECH LIMITED (collectively "Defendants") are being denied.

1 3. The Defendants received initial disclosures and, today, a small part of the
2 discovery from the U.S. that have been provided to the other defendants much earlier. Yet,
3 prejudicial cutoffs with respect to the Defendants have resulted.

4 4. The Defendants have drafted, very meritorious, dispositive motions based on
5 mootness, certain constitutional grounds, estoppel, other new grounds and some narrow
6 jurisdictional grounds. These motions will raise new issues and grounds in this civil action.

7 5. These motions have not been filed because the Defendants have been delayed
8 by promised, but not yet provided, needed declarations for various reasons. We anticipate this
9 problem will be cured shortly so these motions can be filed with this Court.

10 6. Extensive discovery will be needed into the ways and means in which the IRS
11 initially obtained the information about the operation of the loan operation now complained of
12 in this civil action. The discovery may result in the development of a basis for suppression
13 and/or exclusion of evidence. In fact, grounds may result in the exclusion of almost all of the
14 evidence presently relied on by the United States in this civil action. This will have to be
15 developed by discovery.

16 7. Extensive depositions of numerous IRS officials and other persons will need to
17 be taken in any event with respect to the issues framed in this case.

18 8. Under the current enforcement of the scheduling order, Defendants cannot
19 evaluate the small part of discovery produced today and discovery that have yet to be provided
20 from the U.S. and then engage in the necessary discovery in any area or helpful evidence that is
21 buried in the IRS' investigative files.

22 9. Defendants are severely prejudiced because they have not been able to perform
23 discovery or have time to select experts after discovery is to be completed. Defendants will
24 continue to incur prejudice.

25 10. Tax cases involving the 90% Stock Loan are winding through the Federal
26 Courts. The Court will have the benefit of these decisions if the continuances are granted.

11. One Superior Court of California has previously granted summary judgment that the marketing of the loan transactions, including the 90% Stock Loan transaction in issue in this civil action, were not the sale of securities but bona fide loans.

I declare under penalty of perjury that the foregoing is true and correct.

Dated: August 25, 2008

By /s/ Edward O.C. Ord
Edward O.C. Ord

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CERTIFICATE OF SERVICE

I hereby certify that on August 25, 2008, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF System which will send notification of such filing to the following:

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I further certify that on August 13, 2008, service of the foregoing was made upon the following by depositing a copy in the Unites States mail, postage prepaid:

Yuri Debevc (*pro se*)
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Charleston, SC 29412

/s/ Edward O.C. Ord
EDWARD O.C. ORD